

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBJECT: Final Project-Specific Nonavailability Waiver of Build America Buy America Act (BABA) Requirements to the Grove Affordable Housing Project for Surface Mounted Downlights (HUD Waiver #W-0000155)

Introduction

The U.S. Department of Housing and Urban Development (HUD) is issuing a BABA waiver to an assistance recipient based on nonavailability of a single product for a single project.

Solicitation of Public Comment

The proposed waiver was posted on HUD's public facing webpage and a notice of the proposed waiver was also posted to the Made in America website from August 11, 2026, through August 26, 2026, thus satisfying the requirement to publish any BABA project waiver and provide the public with fifteen (15) days to submit comments. HUD did not receive any public comments on this waiver during the public comment period. Therefore, no changes were made to the proposed waiver, except to replace references to the “proposed waiver” with references to the “final waiver.”

Background

The Buy America Preference set forth in section 70914 of BABA included in the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58), requires that all iron, steel, manufactured products, and construction materials used for infrastructure projects under Federal financial assistance awards be produced in the United States.

Under section 70914(b), HUD may waive the application of the Buy America Preference (BAP), in any case in which it finds that: applying the domestic content procurement preference would be inconsistent with the public interest; types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or the inclusion of iron, steel, manufactured products, or construction materials produced in the United States would increase the cost of the overall project by more than twenty-five (25) percent. All waivers must have a written explanation for the proposed determination; provide a period of not less than fifteen (15) days for public comment on the waiver; and be submitted to the Office of Management and Budget’s (OMB) Made in America Office for review to determine if the waiver is consistent with policy.

Summary

Final Waiver: HUD is issuing a project waiver of the requirements of section 70914 of BABA included in the IIJA, for surface mounted downlights in an infrastructure project funded through the Housing Trust Fund (HTF).

Waiver Type: Nonavailability of domestic products in sufficient and reasonably available quantities or of a satisfactory quality.

Waiver Level and Scope: Project-level waiver for a single product for a single project. No other project will utilize the waiver.

Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Grove affordable housing project in Broomfield, Colorado for surface mounted downlights.

Project Summary: The project is located at 1355 Cottonwood Street, Broomfield, Colorado 80020. The project consists of the construction of a new 40-unit affordable housing development.

Length of the Waiver: From September 9, 2026, until the completion of the project, which is anticipated to be September 30, 2028.

Items Covered in Waiver: The Colorado Department of Local Affairs is being issued a waiver for surface mounted downlights, as described in detail below:

- **Name of Product 1:** Surface Mounted Downlights
 - **NAICS:** 335132 - Ceiling lighting fixtures, commercial, industrial, and institutional, manufacturing
 - **PSC:** 6210 - Indoor and Outdoor Electric Lighting Fixtures
 - **Technical Specifications:** Wattage 10W, Voltage 120V, CCT 3000K selectable, Lumens 700lm, Dimming 0-10V, Surface mount Yes, Source LED

Description of Efforts Made to Avoid the Need for a Waiver

The grantee conducted market research in September 2025.

The developer engaged the Oklahoma Manufacturing Alliance (OMA), Oklahoma's official Manufacturing Extension Partnership (MEP), to execute comprehensive, strategic sourcing for compliance with Build America, Buy America (BABA) provisions. OMA's sourcing methodology was multifaceted, involving two primary components: National Institute of Standards and Technology (NIST) Supplier Scouting Program, and extensive independent market research. The Oklahoma Manufacturing Alliance (OMA) conducted interviews with seven suppliers. Two of the suppliers offer some BABA compliant products, but they do not meet the technical specifications required for this project. The other manufacturers do not offer BABA compliant products.

Similarly, HUD conducted an online search of six additional manufacturers and suppliers and did not locate any manufacturers or suppliers that could provide BABA-compliant products. HUD identified a possible BABA-compliant supplier, but the grantee determined that none of the suppliers available BABA-compliant products met the technical specifications of the project, as the downlights must meet existing cutout sizes.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for this project would result in the inability of the developer to complete the project.

Assessment of Cost Advantage of a Foreign-Sourced Product Under OMB M-24-02, agencies are expected to assess "whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products" as appropriate before granting a public interest waiver. HUD has concluded that this assessment is not applicable to this waiver as this waiver is not based on the cost of foreign-sourced products.

Description of Award

Agency: United States Department of Housing and Urban Development (HUD)

Common Governmentwide Accounting Classification (CGAC) Code: 086

Title of Project: The Grove Affordable Housing Project

Recipient Name: Colorado Department of Local Affairs

Unique Entity Identifier (UEI): NUJ5Q3DW7U98

Federal Award Identification Number (FAIN): F-24-SG-08-0100

Financial Assistance Listing Name: Housing Trust Fund (HTF)

Assistance Listing Number: 14.275

Federal Financial Assistance Funding Amount: \$1,200,000.00

Total Estimated Infrastructure Expenditures: \$23,972,653.00